



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2017-0143; FRL-9976-50-Region 7]

Air Plan Approval; Iowa; Amendment to the Administrative Consent Order, Grain Processing Corporation, Muscatine, Iowa; Proposal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) for the State of Iowa to incorporate an amendment to the Administrative Consent Order (ACO) for Grain Processing Corporation (GPC), Muscatine, Iowa. The revision amends the ACO to change the date for completion of performance testing from May 31, 2017, to May 31, 2018, to allow the state more time to complete the remaining air construction permit applications submitted by GPC, and to specify testing requirements as appropriate in the final permits. When the state submitted the request to amend the ACO, twelve of the 107 permits were incomplete. At this time, only two permits have not been issued by the State. The air quality in Muscatine, Iowa, has not been adversely impacted by the remaining pending permit approvals. This revision will not impact the schedule for installation and

operation of control equipment, will not alter any other compliance dates, and will not adversely affect air quality in Muscatine, Iowa, as explained in the revised Technical Support Document that is part of this docket.

This proposal will also address adverse comments submitted to the docket.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2017-0143 to <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7039, or by email at hamilton.heather@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. What is Being Addressed in this Document?
- III. Have the Requirements for Approval of a SIP Revision Been Met?
- IV. EPA’s Response to Comment
- V. What Action is EPA Taking?
- VI. Incorporation by Reference
- VII. Statutory and Executive Order Reviews

I. Background

On August 25, 2017, EPA proposed to approve a revision to the Iowa State Implementation Plan (SIP) which amended the Administrative Consent Order (ACO) for Grain Processing Corporation (GPC), Muscatine, Iowa. The revision amended the ACO to change the date for completion of performance testing from May 31, 2017, to May 31, 2018, to allow the state more time to complete processing the remaining air construction permit applications submitted by GPC, and to specify testing

requirements as appropriate in the remaining final permits. See 82 FR 40519. In conjunction with the August 25, 2017 notice of proposed rulemaking (NPR), EPA issued a direct final rule (DFR) approving the amended ACO. See 82 FR 40491. In the DFR, EPA stated that if adverse comments were submitted to EPA by September 25, 2017, the action would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period. EPA withdrew the DFR on October 12, 2017. See 82 FR 47396.

This proposal will also address adverse comments submitted to the docket.

II. What is Being Addressed in this Document?

This proposed revision to the Iowa State Implementation Plan (SIP) will incorporate an amendment to the Administrative Consent Order (ACO) with Grain Processing Corporation (GPC), Muscatine, Iowa. The revision changes the date for completion of performance testing from May 31, 2017, to May 31, 2018, to allow the state more time to complete processing the remaining air construction permit applications submitted by GPC, and to specify testing requirements as appropriate in the remaining final permits. This amendment will not impact the schedule for installation and operation of control equipment, will not alter

any other compliance dates, and will not adversely affect air quality in the Muscatine, Iowa, area as explained in the Technical Support Document that is part of this docket.

This proposal will also address adverse comments submitted to the docket.

III. Have the Requirements for Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The state instituted a 30-day comment period; no comments were received. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the revised Technical Support Document which is part of this docket, the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

IV. EPA's Response to Comment

The public comment period for EPA's proposed rule opened August 25, 2017, the date of its publication in the **Federal Register**, and closed on September 25, 2017. During this period, EPA received an adverse comment. The adverse comment and EPA's response is as follows:

Comment 1: The commenter first stated that the TSD was not available in the docket. The TSD was not available in the docket when the proposal and direct final notices were published on Friday, August 25, 2017

Response 1: The TSD was made publicly available on Monday, August 28, 2017 which was one business day. EPA did not grant an extended comment period as suggested by the commenter. When the TSD was available in the docket, no additional comments were received through the end of the comment period (September 25, 2017). However, because the TSD was not publicly available on the date the notice was published, this proposal allows for additional comment.

Comment 2: The commenter stated that granting an extension for GPC to perform testing may cause a violation of emission limits, which could cause a delay in issuing permits, and therefore cause additional air pollution that would have an adverse impact on air quality in Muscatine, Iowa.

Response 2: The amendment to the ACO which provides a one-year extension on performance tests, only affects two of the total of 107 required permits. The remaining 105 permits have already been issued by the State. This ACO revision does not delay or allow an extension of the requirements for

implementation of the control measures required by the ACO. GPC is still required to conduct the performance testing; the deadline is merely adjusted for the two outstanding permits. The permits that have been finalized, including the permit that allowed the facility to convert from burning coal to natural gas, have resulted in improved air quality in Muscatine, Iowa. There have been no exceedances of the 2006 24-hour NAAQS for fine particulate matter with a diameter of $PM_{2.5}$ since July 2015, before the natural gas conversion.

The complete and quality assured ambient air quality monitoring data for the area shows that the area has, and continues to attain the NAAQS. Background information with regard to air quality in Muscatine, Iowa, as well as design values of air monitors are included in the revised TSD, included in this docket.

V. What Action is EPA Taking?

EPA is proposing to approve a SIP revision submitted by the State of Iowa to incorporate an amendment to the Administrative Consent Order (ACO) with Grain Processing Corporation (GPC), Muscatine, Iowa. EPA is also responding to comments received in the docket, and by responding to comments provides additional

information with regard to the remaining permits to be finalized by the State of Iowa. A revised TSD is included as part of this docket to support the revision to the ACO.

We are processing this as a proposed action because we are soliciting comments. Final rulemaking will occur after consideration of any comments.

VI. Incorporation by Reference

In this action, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Iowa's EPA-approved State source-specific permits described in the direct final amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 7 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully

Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the **Federal Register** in the next update to the SIP compilation.¹

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

¹ 62 FR 27968 (May 22, 1997).

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS**

AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 27, 2018

Karen A. Flournoy,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q-Iowa

2. Section 52.820 paragraph(d) is amended by revising the entry “(29) Grain Processing Corporation” to read as follows:

§52.820 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED IOWA SOURCE-SPECIFIC ORDERS/PERMITS

Name of source	Order/Permit No.	State effective date	EPA approval date	Explanation
* * * * *				
(29) Grain Processing Corporation	Administrative Consent Order No. 2014-AQ-A1	1-16-17	12/1/14, 79 FR 71025; amendment approved [date of final publication in the Federal Register], [final Federal Register citation]	The last sentence of Paragraph 5, Section III and Section VI are not approved by EPA as part of the SIP.
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